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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,257

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Dong-Seuk Chae

2017-059

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EXAMINER

KIRSCH, ANDREW THOMAS

ART UNIT

PAPER NUMBER

3781

MAIL DATE

DELIVERY MODE

03/20/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/565,257	<b>Applicant(s)</b> CHAE, DONG-SEUK	
	<b>Examiner</b> ANDREW T. KIRSCH	<b>Art Unit</b> 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/19/2006</u> .   | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 6 is objected to because of the following informalities: independent claim 1 discloses a plurality of second supporting protrusions, and claim 6 recites for the cover member "...to surround the second supporting protrusions or protrusion." For the purposes of examination, it is interpreted as all or one of the protrusions must be surrounded. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

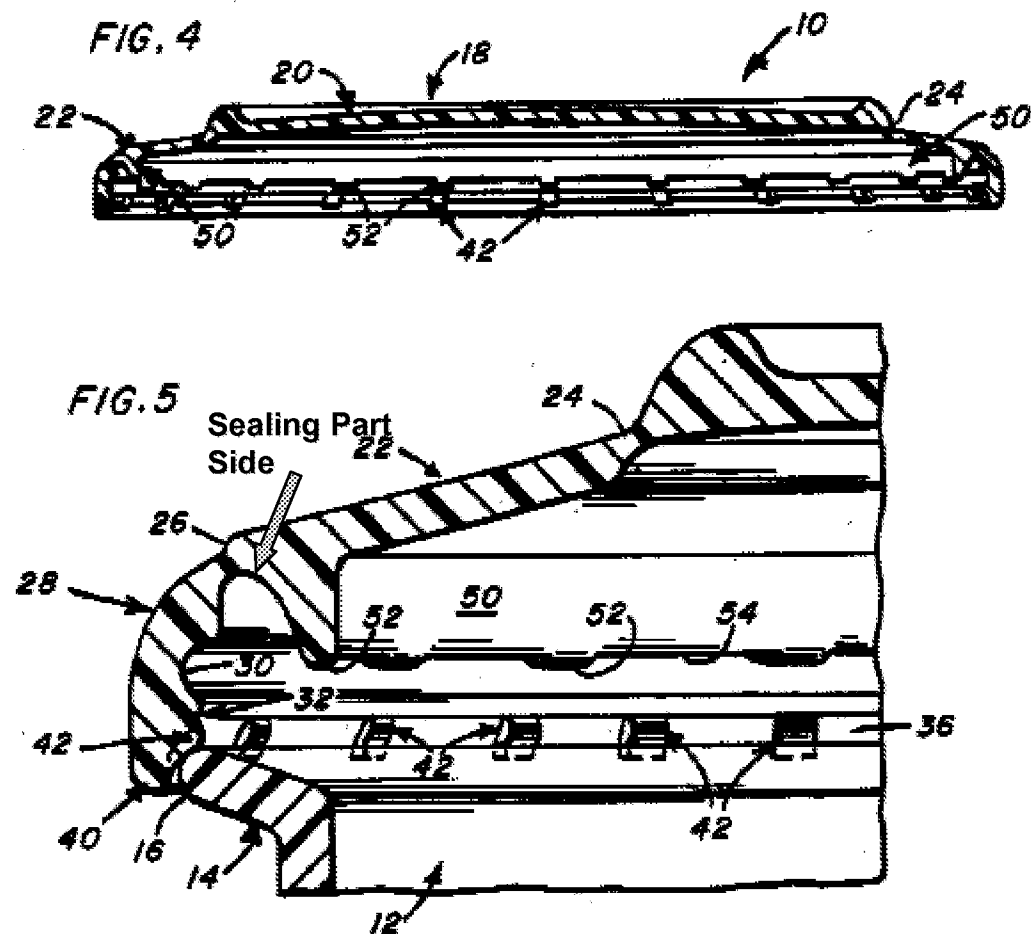
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,147,059 (Olsen et al. hereinafter).

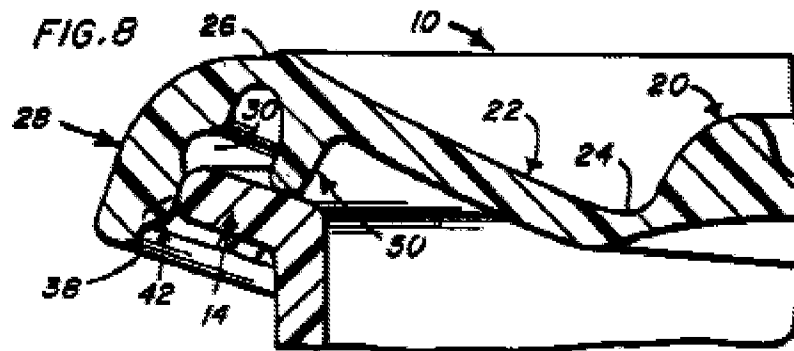
4. In re claims 1 and 2, with reference to Figs. 4, 5 and 8 below, Olsen et al. discloses: A one touch-type container stopper, comprising: a hermetically sealing part (50) having a plurality of first supporting protrusions (52) at a lower end thereof, the first supporting protrusions being formed to protrude inwardly such that they are elastically supported along an outer peripheral surface of a mouth (14) of the container (12), the sealing part (50) being fitted around the mouth (14) to seal the container; and a cover (20, 22 and 28) part having a hinge part (26) formed integrally with and extending from

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the first supporting protrusions (52) and then bent (at 26), and a plurality of second supporting protrusions (42) at a lower end thereof to protrude inwardly therefrom, the cover part (20, 22 and 28) being positioned outside of the sealing part (50), wherein the second supporting protrusions (42) are connected to one another through a band member (36), including wherein there is one second supporting protrusion (42) (different claim 2 limitation).



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5. The joint in Fig. 8 is considered hermetically sealed because the portion of the sealing part is rolled over, creating a straight line joint which is interpreted as being air tight.

6. In re claim 3, with reference to Figs. 4 and 5 above, Olsen et al. discloses the claimed invention including wherein the height of the cover part (20, 22, 28) is larger than that of the sealing part (50) (it is clear the total height of the cover pieces 20, 22, and 28 is greater than the total height of the sealing part 50).

7. In re claim 4, with reference to Figs. 4 and 5 above, Olsen et al. discloses the claimed invention including wherein a friction member (26) is further provided between the sealing part (50) and the cover part (20, 22, and 28). Hinge 26 is also considered a friction member because it is a living hinge included in the cover which will inherently incur friction during its designed flexure.

8. In re claim 5, with reference to Figs. 4 and 5 above, Olsen et al. discloses the claimed invention including wherein the hinge part (26) has an inclination (bent at 26) such that the sealing part side (see Fig. 5) is at a level higher than that of the cover part side (at 28).

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9. In re claim 6, with reference to Figs. 4 and 5 above, Olsen et al. discloses the claimed invention including wherein a cover member (lower part of cover 28) is further provided at a lower end of the cover part (20, 22, 28) to surround the second supporting protrusions (42) or protrusion (42).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen et al. in view of U.S. Patent No. 4,500,006 (La Fortuna et al.).

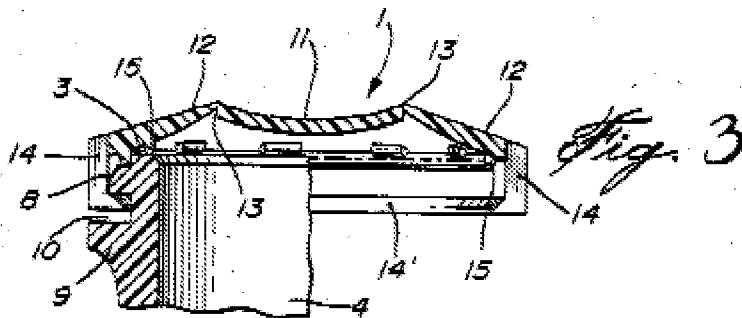
13. In re claims 7 and 8, with reference to Figs. 4 and 5 above, Olsen et al. discloses: A container, comprising: a body portion (12) of the container having a first catching projection (16) at an upper end of a mouth (14) thereof, and a stopper (10) having a hermetically sealing part (50) fitted around the mouth to seal the container, and

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a cover part (20, 22, 28) positioned outside of the sealing part, wherein the sealing part is provided with a plurality of first supporting protrusions (52) at a lower end thereof to protrude inwardly such that they are caught and elastically supported by the first catching projection (see Fig. 8 above), and the cover part is provided with a hinge part (26) formed integrally with and extending from the first supporting protrusions and then bent (at 26), and a plurality of second supporting protrusions (42) at a lower end thereof to protrude inwardly therefrom, the second supporting protrusions being connected to one another through a band member (36), including the limitation of claim 8 wherein there is a second supporting protrusion (42) at a lower end thereof to protrude inwardly therefrom.

14. Olsen fails to disclose a second catching projection formed below the first catching projection, the second catching projection having an outer diameter larger than that of the first catching projection.

15. However, with reference to Fig. below, La Fortuna et al. discloses a second catching projection (9) formed below a first catching projection (8), the second catching projection having an outer diameter larger than that of the first catching projection.



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16. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have combined the second catching projection of La Fortuna et al. with the container neck finish of Olsen et al. for the purposes of preventing unwanted tampering of the closure by blocking a tool or implement from prying up the closure (La Fortuna et al.; column 4, lines 24-27).

17. In re claim 9, with reference to the Figs. above, Olsen et al. in view of La Fortuna et al. discloses the claimed invention including wherein a hermetically sealing member (30) is further provided between the mouth (14) of the body portion (12) of the container and the sealing part (50).

### ***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 5,251,770 to Bartley et al. discloses a container and pressure sealing combination wherein a sealing part and first projections engage a first catching protrusion. U.S. Patent No. 5,833,088 to Kladders et al. discloses a container with a closure cap including a sealing member disposed between a sealing part and a mouth of the container.

Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims



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patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW T. KIRSCH whose telephone number is (571)270-5723. The examiner can normally be reached on M-F, 8am-5pm, Off alt. Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Andrew T. Kirsch/

Examiner, Art Unit 3781

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